

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 18**

AVERA MARSHALL

Employer

and

**AMERICAN FEDERATION OF STATE COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO,
COUNCIL 65**

Petitioner

Case 18-RC-233463

DECISION AND DIRECTION OF ELECTION

The only issue presented in this case is whether the petitioned-for unit, limited to LPN employees at the Employer's Carlson Street facility, is an appropriate unit for bargaining, or whether the unit also must include LPN employees at the Employer's facility located on Bruce Street.¹ The parties agree that in either event, the appropriate unit should include all LPNs and exclude all coordinator support specialists and all casual employees.

A hearing officer of the Board held a hearing in this matter and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant Board law, I find that the petitioned-for unit is an appropriate unit.

THE EMPLOYER'S OPERATIONS

The Employer is engaged in the business of providing healthcare to patients in Marshall, Minnesota. The Employer's operations include facilities located on Carlson Street and Bruce Street. These facilities are about one mile from one another. There are approximately 21² employees in the petitioned-for unit and 27 employees in the unit proposed by the Employer.

The Employer's Bruce Street location has a hospital, a clinic, and a long-term nursing facility. At the Bruce Street location, the Employer provides primary care and family practice, internal medicine, palliative care, pediatrics, surgical services, obstetrics and gynecology, cancer services, behavioral health services, and long-term care services. There are six LPNs who work at the Bruce Street location; two of these LPNs work in the clinic and the other four LPNs work in the long-term care facility. These employees have historically been represented by a labor organization as a unit solely comprised of LPNs at the Bruce Street location. The record

¹ The Employer also has an LPN who works in a clinic in Redwood Falls, Minnesota. The Employer is not seeking to include this one employee into a combined unit of LPNs and Petitioner has agreed to this exclusion.

² The parties used various numbers between 21 and 23 at the hearing for the number of LPNs at the Carlson Street location. I am using the number 21, as that is the number of LPNs listed on the employee list filed by the Employer with the NLRB.

indicates the employees were represented by Minnesota Licensed Practical Nurses Association at some point prior to 1981 and until 2001, when that labor organization affiliated with Petitioner.³ The record also indicates that the LPNs working in the long-term care facility on Bruce Street have historically made up a majority of that bargaining unit. The Employer and Petitioner's collective-bargaining agreement covering these six employees has an effective date of October 1, 2017 until September 30, 2020.

Prior to December 31, 2018, Affiliated Community Medical Centers, an affiliate of Carris Health, LLC, operated a clinic and ambulatory surgery center on Carlson Street in Marshall, Minnesota. This facility offers family practice, urgent care, pediatric services, internal medicine, palliative care, general surgery, podiatry, obstetrics and gynecology. On December 31, 2018, the Employer purchased and took over operations of the Carlson Street clinic and ambulatory surgery center. The LPNs at this facility were not represented by any labor organization prior to the Employer's purchase of the facility. The RNs at the Employer's Bruce Street facility historically have been represented by the Minnesota Nurses Association (MNA); while it is unclear from the record, it is implied that the RNs at the Carlson Street facility were unrepresented and the parties, MNA and the Employer, agreed to accrete the Carlson Street RNs into the Bruce Street unit as of January 1, 2019.

At the time of the hearing, January 10, 2019, the Employer had been operating the Carlson Street facility for less than 10 days.

BOARD LAW

The Board has long held that a petitioned-for, single-facility unit is presumptively appropriate, unless it has been so effectively merged or is so functionally integrated that it has lost its separate identity. *Heritage Park Health Care Center*, 324 NLRB 447, 451 (1997), *enfd.* 159 F.3d 1346 (2d Cir. 1998). This presumption applies equally in the health-care industry. *Manor Healthcare Corp.*, 285 NLRB 224 (1987); *St. Luke's Health System, Inc.*, 340 NLRB 171, 172 (2003). The party opposing the unit bears the "heavy burden of overcoming the presumption." *Mercy Medical Center San Juan*, 344 NLRB 790, 790 (2005). To rebut this presumption, it "must demonstrate integration so substantial as to negate the separate identity" of the unit. *Id.* To determine whether the single-facility presumption has been rebutted, the Board examines: (1) central control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of employee skills, functions, and working conditions; (3) functional integration of the plant and the degree of employee interchange; (4) the distance between locations; and (5) bargaining history, if any exists. See, e.g., *Trane*, 339 NLRB 866 (2003); *Mercy Sacramento Hospital*, 344 NLRB 790, 790 (2005); *J & L Plate, Inc.*, 310 NLRB 429 (1993). In the health care industry, the Board also examines whether a single-facility unit creates an increased risk of work disruption or other adverse impact upon patient care should a labor dispute arise. *Manor Healthcare*, *supra* at 226. The Board has frequently found single-facility units in hospitals and other health care settings to be appropriate. See, e.g., *Heritage Park Health Care Center*, *supra*.

³ The Employer was previously referred to as Weiner Memorial. It is unclear when it took on its current name.

Application of Board Law to this Case

In reaching the conclusion that the single-facility unit is appropriate, I rely on the following analysis and record evidence.⁴

1. Central Control Over Daily Operations and Labor Relations

The Board has made clear that “the existence of even substantial centralized control over some labor relations policies and procedures is not inconsistent with a conclusion that sufficient local autonomy exists to support a single local presumption.” *California Pacific Medical Center*, 357 NLRB No. 21, slip op. at 2 (2001) (citations omitted). Thus, “centralization, by itself, is not sufficient to rebut the single-facility presumption where there is significant local autonomy over labor relations.” *Hilander Foods*, 348 NLRB 1200, 1203 (2006) (citation omitted). Instead, “the Board puts emphasis on whether the employees perform their day-to-day work under the supervision of one who is involved in rating their performance and in affecting their job status and who is personally involved with the daily matters which make up their grievances and routine problems.” *Id.* Therefore, the primary focus of this factor is the control that facility-level management exerts over employees’ day-to-day working lives. See also *Mercy Sacramento*, 344 NLRB at 792 (concluding that a single-facility unit is appropriate despite common labor policies and centralized administration where there was a lack of employee interchange and contact and a substantial degree of local autonomy over day-to-day labor relations).

The Employer presented two witnesses to testify regarding daily operations and labor relations, Director of Clinic Nursing Services Myranda Sharkey and Human Resource Officer Sonya Kayser; both of these individuals are based at the Bruce Street location. With regard to supervision, the evidence presented demonstrates that Director of Clinic Nursing Services Sharkey directly supervises the two clinical LPNs at the Bruce Street location, Clinic Nurse Manager Julie Fier directly supervises the 21 clinical LPNs at the Carlson Street location, and other different individuals directly supervise the four LPNs in the long-term care facility on Bruce Street.⁵ There was no evidence presented that any of these individuals supervise any other LPNs beyond those described above. The Employer argues the 21 clinical LPNs at Carlson Street share common supervision with the LPNs at Bruce Street because Clinic Nurse Manager Fier directly reports to Director of Clinic Nursing Services Sharkey; however, there was no evidence presented that Director of Clinic Nursing Services Sharkey is involved in any way in the day-to-day supervision of the LPNs at Carlson Street. Further, there was evidence presented that not only does each facility have different supervisors for daily operations, but the Bruce Street location itself has different supervisors for the different groups of LPNs. The mere fact that Director of Clinic Nursing Services Sharkey supervises the individual who supervises the

⁴ The Employer did not argue that a single-facility unit creates an increased risk of work disruption or other adverse impact upon patient care should a labor dispute arise so I did not consider this issue.

⁵ Witnesses testified that long-term care LPNs are supervised by Jackie Espy, Hayley Christensen, Angela Eisfilg, and Doty Geernick and that these individuals do not supervise the clinical LPNs at the Bruce Street facility. No evidence was presented that these individuals supervise any employee at Carlson Street.

LPNs at Carlson Street location is insufficient to demonstrate that the LPNs at both locations have centralized supervision without additional evidence. Also, as stated above, the Employer did not provide any evidence of managers or supervisors directly supervising employees at different locations than where they are based with the sole exception of Clinic Nurse Manager Fier supervising two Bruce Street LPNs when they were performing training on limited dates at Carlson Street, which is discussed in more detail below.

HR Officer Kayser testified that the LPNs at Bruce Street and Carlson Street currently receive the same wages and benefits and that the LPNs at Bruce Street and Carlson Street will ultimately be under the same policies and procedures, most likely within a couple of months. Until the policies are consolidated and implemented, she will follow the Bruce Street policies in place for matters at Carlson Street. HR Officer Kayser also testified that while there are currently no HR representatives physically located at the Carlson Street location, she oversees the HR functions from the Bruce Street location. HR Officer Kayser generally testified she is responsible for hiring, firing, corrective action, benefits, workers' compensation, and leave for the Employer; however, there was no evidence presented as to what functions HR Officer Kayser or any other Bruce Street-based HR representatives specifically perform for Carlson Street LPNs and what functions are left to the managers and supervisors at Carlson Street. For example, no evidence was presented as to who grants time off, makes daily assignments, or completes appraisals for Carlson Street employees.

There was likewise a lack of specificity with regard to the Employer's evidence on labor relations. HR Officer Kayser merely testified in response to a leading question that she is the "top human resources level over labor relations" for the Carlson Street clinic. Beyond this conclusionary testimony, the Employer presented no evidence that Carlson Street Clinic Nurse Manager Fier or any other managers or supervisors at the Carlson Street Clinic are only vested with minimum discretion with respect to addressing daily grievances or other facets of labor relations, or that HR Officer Kayser plays any role in day-to-day labor relations at Carlson Street.

As the presumption is in favor of single-facility units, and the burden is on the party opposing a single-facility unit to present evidence overcoming the presumption, any absence of evidence supporting any aspect of the presumption, such as local autonomy, is not affirmative evidence to rebut the presumption. See *J&L Plate*, 310 NLRB 429 (1993). Given that the Employer's evidence with regard to supervision and HR oversight fails to establish that the Carlson Street Clinic lacks significant autonomy with regard to daily operations and labor relations, I find that this factor supports the appropriateness of the petitioned-for single-facility unit.

2. Similarity of Skills, Functions, and Working Conditions

The similarity or dissimilarity of work, qualifications, working conditions, wages and benefits between employees at the facilities that an employer contends should be in the unit has some bearing on determining the appropriateness of the single-facility unit. However, this factor is less important than whether individual facility management has autonomy and whether there is

substantial interchange. See, for example, *Dattco, Inc.*, 338 NLRB 49, 51 (2002) (“This level of interdependence and interchange is significant and, with the centralization of operations and uniformity of skills, functions and working conditions is sufficient to rebut the presumptive appropriateness of the single-facility unit.”)

In the instant case, the evidence demonstrates that the LPNs at both facilities do generally share similar skills, functions, and working conditions. For example, the LPNs at both facilities are covered under the same job description and perform similar tasks such as taking vital signs, documenting symptoms, and overseeing medications; they also use the same type of equipment. Further, the LPNs appear to have the same wages and benefits. The LPNs currently working at both facilities also went through similar, but not identical, training at the beginning of their employment and have the same licensure. However, there are some differences. More specifically, long-term care facility LPNs at the Bruce Street location work 12-hour shifts with varying days on and off, whereas the clinical LPNs at Bruce Street and Carlson Street work 8-hour shifts Monday through Friday. The Carlson Street LPNs additionally need to work rotating weekends and evenings to cover urgent care, while the Bruce Street LPNs do not. The long-term care LPNs at Bruce Street deal with elderly residents with dementia or Alzheimer’s, and therefore, have different skills and tasks than those of clinical LPNs either at Bruce Street or Carlson Street. For example, long-term care LPNs at Bruce Street receive dementia training, often deal with non-ambulatory residents, make referrals for and assist with different types of therapy, and help with daily living activities if CNAs are unavailable.

I find that the differences in skills, functions, and working conditions are substantial enough for this factor to weigh in favor of the appropriateness of the petitioned-for single-facility unit.

3. The Degree of Employee Interchange and Functional Integration

Employee contact is considered interchange where a portion of the work force of one facility is involved in the work of the other facility through temporary transfer or assignment of work. However, a significant portion of the work force must be involved and the work force must be actually supervised by the local branch to which they are not normally assigned in order to meet the burden of proof on the party opposing the single-facility unit. *New Britain Transportation Co.*, 330 NLRB 397, 398 (1999). For example, the Board found that interchange was established and significant where during a 1-year period there were approximately 400 to 425 temporary employee interchanges among three terminals in a workforce of 87 and the temporary employees were directly supervised by the terminal manager from the terminal where the work was being performed. *Dayton Transport Corp.*, 270 NLRB 1114 (1984). On the other hand, where the amount of interchange is unclear both as to scope and frequency because it is unclear how the total amount of interchange compares to the total amount of work performed, the burden of proof is not met, including where a party fails to support a claim of interchange with either documentation or specific testimony providing context. *Cargill, Inc.*, 336 NLRB 1114 (2001); *Courier Dispatch Group*, 311 NLRB 728, 731 (1993). Also important in considering interchange is whether the temporary employee transfers are voluntary or required, the number of permanent employee transfers, and whether the permanent employee transfers are voluntary. *New Britain Transportation Co.*, *supra*.

Here, the record does not establish that a significant portion of the work force moves and works between the Bruce Street and Carlson Street locations. The Employer argues that it has demonstrated interchange of employees because on five different dates and some possible future dates, one or two clinical LPNs from Bruce Street worked at the Carlson Street location. [There was no evidence presented of any LPN from Carlson Street working at Bruce Street.] However, the evidence also demonstrates that these two LPNs were engaged in training the LPNs at Carlson Street and that they had voluntarily agreed to the assignment. Next, the Employer argues that I should consider the fact that it intends to move LPNs between the two facilities in the future to address staffing needs. This testimony is not persuasive considering the Employer failed to present any evidence to substantiate this claim. In fact, the two LPNs at Bruce Street who testified at the hearing contend they had never heard of the Employer's intention to move LPNs between facilities. The two LPNs also testified that there is no interchange of LPNs even within the Bruce Street facility, meaning that the long-term care LPNs do not ever work in the clinic next door nor do the clinical LPNs ever work in the long-term care facility. Finally, the evidence demonstrates that the Employer uses casual LPNs, which by their definition are nurses that provide coverage for an employer when staffing needs arise; this undercuts the Employer's argument that it will need to frequently move LPNs to work between the two facilities to cover staffing needs. Even if the Employer were unable to cover staffing needs with casual LPNs, it does not seem likely that such interchange between the Bruce Street and Carlson Street locations would be frequent or would involve a significant portion of the workforce and the Employer provided no evidence to rebut this. It should also be noted that no evidence was presented regarding any contact between LPNs at both locations, other than the aforementioned training provided by the Bruce Street LPNs at the Carlson Street Clinic.

The Employer did not present any evidence of functional integration between the two facilities. As to the Employer's claim that it plans or "expects" to integrate the two facilities more in the future, the Board has repeatedly held that representational proceedings will not be delayed based on future plans that are not substantiated, well-defined, and definite, as they are speculative. *Hazard Express, Inc.*, 324 NLRB 989, 990 (1997); *Canterbury of Puerto Rico*, 225 NLRB 309 (1976) (employer's stated intention to cease operations is too speculative a basis to bar an election); *Bakaert Steel Wire Corp.*, 189 NLRB 561 (1971) (board's claim that it planned to construct a new facility in the future too speculative and distant to warrant dismissal of a petition); *Laurel Associates, Inc.* 325 NLRB 603 (1998) (employer's request for review of order directing election based on future expansion of possible unit denied because hearing record was devoid of any evidence of details of expansion). In this case, the Employer did not present any evidence to substantiate its plans for functional integration in the future beyond mere conclusionary statements regarding its expectations of a higher degree of employee interchange in the future.

The Employer's failure to substantiate either significant interchange or any functional integration between the facilities militates strongly in favor of the appropriateness of a single-facility unit.

4. Distance between Locations

While significant geographic distance between locations is normally a factor in favor of a single-facility unit, it is less of a factor when there is evidence of regular interchange between the locations, and when there is evidence of centralized control over daily operations and labor relations with little or no local autonomy, particularly when employees at the facilities otherwise share skills, duties, and other terms and conditions of employment, as well as are in contact with one another. *Trane*, supra at 868.

As stated above, the facilities in dispute in this matter are about one mile apart. In view of my conclusions regarding the first three factors, I conclude that the distance between locations does not outweigh the evidence that the single-facility unit is appropriate.

5. Bargaining History

As stated above, Petitioner, or its affiliate/predecessor, has represented a unit of LPNs, in a single-facility unit, since at least 1981 at the Employer's Bruce Street location. The history of this single-facility unit at Bruce Street is relevant but a somewhat neutral factor considering that the Employer did not operate Carlson Street during that bargaining history. However, there is evidence that during this bargaining history, the Employer had at least one other facility in Redwood Falls, Minnesota and that facility was not included in the same unit as Bruce Street.

While, as described earlier, the MNA and the Employer agreed to a multi-facility bargaining unit for RNs at Bruce Street and Carlson Street as of January 1, 2019, I find that the decades of bargaining in a separate LPN unit at Bruce Street outweighs this new and short duration of collective bargaining in units represented by a different labor organization. See *Sutter West Bay Hospitals*, 357 NLRB 197 (2011) and *Mercy Sacramento*, supra at 791-792 (Board finding that the history of single-location unit between employer and petitioner was more relevant than the history of a multi-location unit between other labor organizations and the employer's parent company).

Given the recent addition of the Carlson Street facility, this bargaining history evidence neither supports nor negates the appropriateness of the single-facility unit sought by Petitioner.

CONCLUSION

As stated above, the Board has long held that a petitioned-for single-facility unit is presumptively appropriate, and the party opposing the unit bears the heavy burden of demonstrating integration so substantial as to negate the separate identity of the unit. I have carefully considered the record evidence and weighed the various factors relevant to the determination of whether a single-facility unit is appropriate. I find that the Employer has failed to rebut the single-facility presumption and that the single-facility unit sought by Petitioner is appropriate. In reaching this conclusion I rely, in particular, on: the lack of evidence of centralized control over daily operations; the evidence demonstrating differences in skills between the LPNs performing long-term care at Bruce Street and the clinic LPNs at Carlson Street, and differing work conditions, including hours, between the LPNs at both clinics; the

complete lack of evidence of functional integration; and the lack of evidence of significant and frequent interchange of employees.

The Employer argues the decision in *Nott Company*, 345 NLRB 396 (2005), should be controlling.⁶ In *Nott*, the employer purchased another existing facility, then promptly closed that facility and moved those newly acquired employees to its regular facility to work alongside its employees, thereby going from having multiple locations to one single location; the employees at the newly acquired facility were unrepresented and the employer's employees at its regular facility were represented. The Board found that there was substantial evidence of integration of functions and workforces after the employees from the other facility began working with the employer's employees. The facts in this situation are clearly different. The Employer did not close the Carlson Street location and move those LPNs to Bruce Street to work alongside the LPNs there, instead it continued operating both facilities in unchanged form. The Employer continues to operate both clinics concurrently, and as stated, there is insufficient evidence to demonstrate substantial integration between the two facilities to negate their separate identities. For that reason, *Nott* is distinguishable.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁷
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

⁶ The Employer also cited *Barlett Collins Company*, 334 NLRB 484 (2001) and *Kaiser Foundation Health Plan of Oregon*, 225 NLRB 409 (1976) in support of its position for a multi-location unit. *Bartlett* is inapposite because it does not involve a single-facility vs. multi-facility argument and instead involves determining the appropriateness of a craft unit in a glass factory. *Kaiser* is also not relevant because it does not include a single-facility presumption analysis and was decided prior to the main cases cited above that involve the current standards for single-facility units. See e.g. *Trane*; *Heritage Park*; *St. Luke's*; and *Manor Healthcare*, supra.

⁷ The Employer is engaged in the business of providing healthcare services at its Carlson Street facility in Marshall, Minnesota. Within the past calendar year, a representative period, the Employer had a gross annual revenue in excess of \$250,000 and purchased and received at its facilities within the State of Minnesota goods valued in excess of \$50,000 directly from points outside the State of Minnesota.

All full-time and regular part-time LPN employees employed by the Employer at its Carlson Street facility in Marshall, Minnesota; excluding all coordinator support specialists, casual employees, all managers, supervisors and guards as defined in the Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by American Federation of State County and Municipal Employees, AFL-CIO, Council 65.

A. Election Details

The election will be held on February 5, 2019, from 4:00 p.m. until 6:00 p.m. at the second floor conference room at the Employer's facility on Carlson Street.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **January 12, 2019**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by January 23, 2019. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: January 18, 2019

/s/ Jennifer A. Hadsall

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